
STATUTORY INSTRUMENTS

2009 No. 309

The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009

Interpretation

2.—(1) In these Regulations—

“the 1993 Act” means the Health Service Commissioners Act 1993⁽¹⁾;

“the 2004 Regulations” means the National Health Service (Complaints) Regulations 2004⁽²⁾;

“the 2006 Act” means the National Health Service Act 2006⁽³⁾;

“the 2006 Regulations” means the Local Authority Social Services Complaints (England) Regulations 2006⁽⁴⁾;

“adult” means an individual who has attained the age of 18;

“adult social care” means social care within the meaning of Part 1 of the Health and Social Care Act 2008⁽⁵⁾ which is provided to an adult;

“adult social care provider” means a person or body who carries on an activity which—

- (a) involves, or is connected with, the provision of adult social care; and
- (b) is a regulated activity within the meaning of Part 1 of the Health and Social Care Act 2008;

“child” means an individual who has not attained the age of 18;

“complaints manager” means the person designated in accordance with regulation 4(1)(b);

“local authority” means—

- (a) a county council in England;
- (b) a metropolitan district council;
- (c) a non-metropolitan district council for an area for which there is no county council;
- (d) a London borough council;
- (e) the Common Council of the City of London; or
- (f) the Council of the Isles of Scilly;

“general dental services contractor” means a person or body who has entered into a general dental services contract with a Primary Care Trust in accordance with section 100 of the 2006 Act;

“general medical services contractor” means a person or body who has entered into a general medical services contract with a Primary Care Trust in accordance with section 84 of the 2006 Act;

(1) 1993 c. 46.

(2) S.I. 2004/1768, amended by S.I. 2006/552, 562 and 2084, 2007/1898 and 2008/528.

(3) 2006 c. 41.

(4) S.I. 2006/1681.

(5) 2008 c.14.

“general ophthalmic services contractor” means a person or body who has entered into a general ophthalmic services contract with a Primary Care Trust in accordance with section 117 of the 2006 Act;

“Health Service Commissioner” means the person appointed Health Service Commissioner for England in accordance with section 1 of, and Schedule 1 to, the 1993 Act;

“independent provider” means a person or body who—

- (a) provides health care in England under arrangements made with an NHS body; and
- (b) is not an NHS body or primary care provider;

“NHS body”, except in regulation 6(1)(a)(ii), means—

- (a) a Strategic Health Authority;
- (b) a Special Health Authority which does not exercise functions only or mainly in Wales and to which section 2 of the 1993 Act applies;
- (c) a Primary Care Trust;
- (d) an NHS trust managing a hospital, or other establishment or facility, in England;
- (e) NHS Direct National Health Service Trust; or
- (f) an NHS foundation trust;

“primary care provider” means a person or body who—

- (a) is a general medical services contractor;
- (b) provides primary medical services in accordance with arrangements made under section 83(2)(b) or 92 of the 2006 Act;
- (c) is a general dental services contractor;
- (d) provides primary dental services in accordance with arrangements made under section 107 of the 2006 Act;
- (e) is a general ophthalmic services contractor;
- (f) provides pharmaceutical services in accordance with arrangements made under section 126 of the 2006 Act;
- (g) provides additional pharmaceutical services in accordance with arrangements made under section 127 of the 2006 Act; or
- (h) provides local pharmaceutical services in accordance with an LPS scheme established under paragraph 1 of Schedule 12 to the 2006 Act;

“registered person” has the meaning given in regulation 10;

“relevant complaints procedure” means—

- (a) any arrangements for the handling and consideration of complaints that may at any time be or have been required respectively by any of the following provisions—
 - (i) paragraph 32 of Schedule 1 to the National Health Service (Pharmaceutical Services) Regulations 2005(6);
 - (ii) paragraph 19 of Schedule 3 to the National Health Service (Pharmaceutical Services) Regulations 2005(7); or

(6) S.I. 2005/641, relevant amendments are made by paragraph 1 of the Schedule to these Regulations. A new paragraph 32 of Schedule 1 is substituted with effect from 1st April 2009 by paragraph 1(2) of the Schedule to these Regulations.

(7) S.I. 2005/641. A new paragraph 19 of Schedule 3 is substituted with effect from 1st April 2009 by paragraph 1(4) of the Schedule to these Regulations.

- (iii) paragraph 25 of Schedule 2 to the National Health Service (Local Pharmaceutical Services etc.) Regulations 2006**(8)**; or
- (b) any complaints procedure that may at any time be or have been required respectively by any of the following provisions—
 - (i) paragraph 92 of Schedule 6 to the National Health Service (General Medical Services Contracts) Regulations 2004**(9)**;
 - (ii) paragraph 86 of Schedule 5 to the National Health Service (Personal Medical Services Agreements) Regulations 2004**(10)**;
 - (iii) paragraph 47 of Schedule 3 to the National Health Service (General Dental Services Contracts) Regulations 2005**(11)**;
 - (iv) paragraph 47 of Schedule 3 to the National Health Service (Personal Dental Services Agreements) Regulations 2005**(12)**; or
 - (v) paragraph 22 of Schedule 1 to the General Ophthalmic Services Contracts Regulations 2008**(13)**;

“responsible body” means a local authority, NHS body, primary care provider or independent provider;

“responsible person” means the person designated in accordance with regulation 4(1)(a);

“working day” means any day except a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday in England under section 1 of the Banking and Financial Dealings Act 1971**(14)**.

- (2) “Care standards complaint” means a complaint which—
 - (a) relates to services provided by an establishment or agency in respect of which a person is required to be registered under section 11 of the Care Standards Act 2000**(15)**; and
 - (b) does not relate to the exercise by a local authority of—
 - (i) its social services functions (as defined in section 148 of the Health and Social Care (Community Health and Standards) Act 2003**(16)**); or
 - (ii) any function discharged by it under arrangements made under section 75 of the 2006 Act.
- (3) “Social care provider complaint” means a complaint which—
 - (a) relates to action taken by an adult social care provider in connection with the provision of adult social care; and
 - (b) does not relate to the exercise by a local authority of—
 - (i) its social services functions; or

(8) [S.I. 2006/552](#). A new paragraph 25 of Schedule 2 is substituted with effect from 1st April 2009 by paragraph 2 of the Schedule to these Regulations.

(9) [S.I. 2004/291](#), amended by [S.I. 2004/2694](#) and [2007/3491](#), and paragraph 3 of the Schedule to these Regulations. A new paragraph 92 of Schedule 6 is substituted with effect from 1st April 2009 by paragraph 3(2) of the Schedule to these Regulations.

(10) [S.I. 2004/627](#), amended by [S.I. 2004/2694](#) and [2007/3491](#), and paragraph 4 of the Schedule to these Regulations. A new paragraph 86 of Schedule 5 is substituted with effect from 1st April 2009 by paragraph 4(2) of the Schedule to these Regulations.

(11) [S.I.2005/3361](#), amended by paragraph 5 of the Schedule to these Regulations. Paragraph 47 of Schedule 3 is amended with effect from 1st April 2009 by paragraph 5(3) of the Schedule to these Regulations.

(12) [S.I.2005/3373](#), amended by paragraph 6 of the Schedule to these Regulations. Paragraph 47 of Schedule 3 is amended with effect from 1st April 2009 by paragraph 6(3) of the Schedule to these Regulations..

(13) [S.I. 2008/1185](#), amended by paragraph 7 of the Schedule to these Regulations. Paragraph 22 of Schedule 1 is amended with effect from 1st April 2009 by paragraph 7(3) of the Schedule to these Regulations.

(14) 1971 c.80.

(15) 2000 c.14.

(16) 2003 c.43.

- (ii) any function discharged by it under arrangements made under section 75 of the 2006 Act.